

## Status: Security Regulations

One more time: “Speaking at the e-Pennsylvania Alliance Summit on November 7, Stanley Nachimson, CMS Senior Technical Advisor, said the expected date of publication in the Federal Register for the final HIPAA Security Rule and the final Rule on the Addendum to the HIPAA Transactions and Code Sets will be December 27, 2002. Also, the final national Provider Identifier is expected in early 2003 and the proposed Health Plan (Payer) Identifier is expected in early spring 2003.”

+ More at: <http://www.hipaadvisory.com/news/>

## Status: Physicians

“A lackluster response to the first major milestone in the implementation of new federal electronic health transmission standards shows just how unprepared many physicians and others are for meeting the requirements of the Health Insurance Portability and Accountability Act.

“An Internet survey of its members by the AMA in June and July showed that only 36% of physicians had completed an operational assessment of their practice to compare their current activities with the HIPAA requirements. More than half said they planned to upgrade or change computer technology to comply with HIPAA, but only one in five planned to hire a contractor, vendor or consultant to help with the efforts. The AMA is urging all physicians who didn't file for the extension to become compliant as soon as possible.

The survey “found that many physicians and their staffs don't really understand the HIPAA privacy rules, and even fewer understand the transaction requirements.

*Physicians who say they have a good understanding of:*

Privacy requirements: 56%

Security requirements: 44%

Transaction requirements: 38%

*Physicians who say their office manager or staff has a good understanding of:*

Privacy requirements: 41%

Security requirements: 39%

Transaction requirements: 38%

+ More at: [http://www.ama-assn.org/sci-pubs/amnews/pick\\_02/gvl11104.htm](http://www.ama-assn.org/sci-pubs/amnews/pick_02/gvl11104.htm)

## **Status: Transaction Extensions**

“According to a spokesperson from the Centers for Medicare & Medicaid Services, about 550,000 health care organizations filed for a one-year extension for complying with the electronic transmission standards by the Oct. 15 deadline. This represents much less than half of the entities governed by the regulation.

“CMS had previously estimated that there were more than 2 million physician practices and other groups impacted by the law. But even the agency is unsure how many of those are exempt because they are too small or how many decided to become compliant this year. Practices with fewer than 10 full-time employees that do not submit electronic transactions will not be required to comply.

“The fate of those who did not file is still unclear. CMS is prohibited by law from accepting any more requests for extensions and has removed the extension application from its Web site. In theory, physicians who did not file for an extension were required to be in compliance with the new standards after Oct. 16.

“CMS has been charged with oversight of all the non-privacy portions of HIPAA. But the agency has said it will take a complaint-driven approach to enforcing the transmission standards. Even when a complaint is filed, agency officials said, CMS will seek to ‘bring that group into the fold’ rather than make use of the noncompliance penalties included in the law.

“Practices found to be noncompliant would be asked to prove they were making progress in their efforts or to submit a compliance plan. Only in cases of a flat refusal to comply is CMS expected to turn to fines or exclusion from Medicare as an option.”

+ More at: [http://www.ama-assn.org/sci-pubs/amnews/pick\\_02/gvl11104.htm](http://www.ama-assn.org/sci-pubs/amnews/pick_02/gvl11104.htm)

## Definition: Covered Entity?

Most of our readers know whether or not they are covered entities. However, the process of getting business associate agreements may raise the question about the status of others. HHS helps to answer this question with a new easy-to-use question and answer decision tool at: <http://www.cms.hhs.gov/hipaa/hipaa2/support/tools/decisionsupport/default.asp>

## Status: Fall 2002 Survey

Phoenix Health Systems and HIMSS have published their Fall [mid-October] 2002 HIPAA Compliance Survey. The responses were from: 68% providers, 17% Payers, 3% Clearinghouses and 12% Vendors.

Here are the findings that we found most interesting:

- HIPAA support from senior officers, initially difficult to achieve, remains generally strong.
- Over 80% of all respondents applied for the Transactions deadline extension from October 2002 to October 2003. [Respondents to the survey may be more actively involved in HIPAA than the industry as a whole where estimate are that less than half filed – see articles above.]
- Covered entities are focusing mainly on Privacy and Transactions compliance; Security initiatives are moving more slowly, despite Privacy Rule mandates for strong security measures to protect confidentiality.
- Only 5% say they have completed HIPAA Transactions and Code Sets remediation and Privacy remediation.
- Participants who reported that they had completed Transactions and Code Sets and Privacy remediation identified ‘understanding/interpreting the legal requirements’ as the most difficult aspect of the HIPAA remediation process. However, ‘resolving issues with third parties’ was a very close second. [Particularly in the areas of business associates and transaction testing, the pace for implementation will be impacted by others who are beyond your control. Start coordinating, communicating and planning as soon as possible.]

- ...only 4% predicted that they would now miss the deadline for privacy compliance. [This is 4% of respondents, i.e., organizations that knew about and took time to participate in the survey, which suggests that the percentage for the industry will be much larger.]
- "... only 31% of providers reported that their payers were either moderately or very forthcoming in providing information... nearly 60% reported that their vendors are moderately or very communicative.
- More payers (57%) are focusing on remediation of existing software rather than on the development of new software (35%), with some working on both.
- The number of respondents planning to use the clearinghouse option to provide front-end remediation has increased from 27% to 32%.
- By industry segment: 46% of providers, 55% of vendors, 68% of payers, and 77% of clearinghouses are engaged in transactions implementation initiatives.
- Respondent organizations are focused most on Privacy initiatives. Results reflect a gradual move past the assessment phase, as evidenced by the increase in organizations focusing on project planning – 66% (up from 62% in summer 2002) and implementation – 64% of all participants (up from 53%). Privacy accounts for most of training activity – 47% (up from 37%).
- Over 60% of respondents reported that they are engaged in Security assessment activities. Activity is gradually increasing in the Security implementation phase (33%, up from 30% in the summer 2002 Survey, and 24% in the spring 2002 Survey).
- The survey asked about organizations' real-time progress in HIPAA remediation, and when they would be ready to use HIPAA transactions. Across the industry, less than 50% of respondents had completed gap assessments by early October, indicating slow progress in the last three months. ...30% of our summer respondents planned to be finished with assessments by now, but most had not done so.
- Only 5% of payers and providers reportedly have completed transactions/code sets remediation: ... nearly all estimating completion by the transactions deadline in 2003. However, 35% of providers and 26% of payers do not plan to complete their transactions remediation tasks by April 2002, and so, presumably will not meet HHS' deadline for beginning transactions testing.
- Relatively little progress has been made in Privacy remediation implementation since July, though most respondents still predict that they will complete remediation by the April 2003 compliance deadline. However, concrete evidence of compliance is slim: only 5% of providers and 4% of payers have thus far completed their Privacy implementations. Further, less than 20% of providers and payers expect to finish in the next three months, bringing most essentially 'down to the wire' in meeting the April 2003 Privacy deadline.
- Based on their communications (or lack thereof) with payers, vendors and clearinghouses, many providers were skeptical that their trading partners would be ready to transmit HIPAA transactions by required deadlines. Most provider participants (74%) predicted that their clearinghouses would be ready, but 80% predicted that many, if not most, of their payers would NOT be able to meet the

Transactions Rule deadlines; over 60% had the same concerns about vendor readiness.

- Survey results for fall 2002 showed that fewer respondents across the industry are currently using outside consultants to support HIPAA initiatives (43%) than during July (about 50%). The biggest users of consultants are larger hospitals (53%) and payers (60%). Respondents indicated that consulting support is being used primarily for assessment and project planning.
- About 25% of participants indicated that their organizations plan to use third party certification of their transactions capabilities, and about 20% will recommend that trading partners certify with a third party prior to sending transactions. Fewer (mostly smaller providers) indicated that they plan to perform their own testing with trading partners without using a third-party certification service. Few plan to "require" trading partners to certify through a third party. With just six months left before the testing deadline, over 40% of respondents either did not know or had not planned their testing strategies.
- 56% of respondents reported that their organizations' strategic goals include realizing benefits from their HIPAA efforts, though 44% have not, as yet, focused on achieving HIPAA benefits. Participants identified prevention of future privacy/security breaches as the number one hoped-for benefit (78%), followed by increasing patient confidence through better privacy/security (67%). Providing a reminder of an original intent of HIPAA administrative simplification, the goal of saving time, effort and money through transactions standardization was identified by 62% of respondents, who indicated less optimism about the beneficial impact of implementing security and privacy measures (30%).

View the full results, including supporting graphics, on HIPAAAdvisory.com:

<http://www.hipaadvisory.com/action/surveynew/fall2002.htm>

Review and compare results of the surveys conducted in previous quarters of 2000, 2001, and 2002: <http://www.hipaadvisory.com/action/surveynew/results.htm>

## Privacy: Personal Data Travels Far

Technology is making it much easier for government agencies to share information, so they are -- including details about your bank accounts, medical complaints and family lives. A privacy study commissioned by Senator Lieberman shows that government agencies are generally conscientious about following privacy laws, but it also reveals the extended range of disclosure. As an example: ... medical records of a government worker seeking compensation for a work-related injury or illness may end up in 18 other locations. Personal data

may also be sent to commercial collection agencies, financial consultants, health care providers, labor unions and parties involved in litigation.

+ More at: <http://www.fcw.com/fcw/articles/2002/1028/web-privacy-11-01-02.asp>

## Transactions: De-Identification Software

“Claredi is making available a program to "de-identify" X12 HIPAA transactions. This should facilitate the testing of the HIPAA transactions without compromising individuals' privacy. The software is free for all users. .... Please feel free to use this program with your HIPAA transactions, all we are asking is that you let us know of your results, good or bad, and your suggestions for improvement. And if you come up with "interesting" configuration files, we want to know about those too. The sample configuration file we are using comes mostly from the HIPAA Implementation Guides. “

+ More at:

<http://www.claredi.com/download/?PHPSESSID=ea0ed1ae1067b43f70fd3228e18d14e6>

## Consultant Listing

Claredi Corporation has started a directory of HIPAA EDI consultants on its web site, [www.claredi.com](http://www.claredi.com). The site provides consultants with a central location for listing their areas of HIPAA expertise, and qualifications, while it offers health care organizations a shopping list of available HIPAA experts. Although a listing on Claredi's site is not meant to constitute a recommendation, it will provide a starting point for consultants and HCOs to find each other. ...Access to the directory for consultants and organizations looking for consultants is free.”

+ More at: <http://www.claredi.com/affiliates/consultant.php>

## Update

We have added a link to Phoenix Health Systems [Compliance Calendar](#) on our [Documents](#) page.

## Conferences

THE SIXTH NATIONAL HIPAA SUMMIT *The Leading Forum on Healthcare  
Privacy, Confidentiality, Data Security & HIPAA Compliance* March 26 - 28, 2003  
Washington DC More information and links to presentations at past conferences:  
<http://www.hipaasummit.com>

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